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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte SALLY BLUE HOPPE and
WILLIAM HERNANDEZ

Appeal 2016-004891
Application 13/285,888[1]
Technology Center 2100

Before ST. JOHN COURTENAY III, THU A. DANG, and
LARRY J. HUME, *Administrative Patent Judges*.

HUME, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a) of the final rejection of claims 1–5, 7–11, 13 and 14. Appellants have previously canceled claims 6, 12 and 15. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

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[1] According to Appellants, the real party in interest is Hewlett-Packard Development Company, LP. App. Br. 3.

STATEMENT OF THE CASE[2]

The Invention

Appellants' disclosed and claimed invention relates apparatus and method for managing access to a plurality of heterogeneous data sources through utilization of data access object (hereinafter "DAO") interfaces. Spec. ¶ 8.

Exemplary Claim

Claim 1, reproduced below, is representative of the subject matter on appeal (*emphases* added to contested limitations):

> 1. An apparatus comprising:
>
> a processor; and
>
> a memory on which is stored a set of machine readable instructions that cause the processor to:
>
> receive an interaction request;
>
> determine a data source of a plurality of data sources that 1s to service the interaction request;
>
> *select a data access object (DAO) interface associated with the determined data source* from a plurality of DAO interfaces that are to facilitate interactions with a plurality of heterogeneous data sources,
>
> *wherein each of the plurality of DAO interfaces is to map the interaction request to a respective existing DAO associated with the determined data source and to forward the interaction request to the mapped DAO*; and

[2] Our decision relies upon Appellants' Appeal Brief ("App. Br.," filed April 2, 2015); Examiner's Answer ("Ans.," mailed Oct. 1, 2015); Final Office Action ("Final Act.," mailed Oct. 31, 2014); and the original Specification ("Spec.," filed Oct. 31, 2011).

> implement the selected DAO interface to delegate communication of the interaction request for servicing of the interaction request by the determined data source.

Prior Art

The Examiner relies upon the following prior art as evidence in rejecting the claims on appeal:

Halim	US 2004/0249792 A1	Dec. 9, 2004
Valliappan et al. ("Valliappan")	US 2005/0165754 A1	July 28, 2005
Phillips et al. ("Phillips")	US 2006/0095274 A1	May 4, 2006

Rejection on Appeal

Claims 1–5, 7–11, 13, and 14 stand rejected under 35 U.S.C. § 103(a) as obvious over the combination of Halim, Valliappan, and Phillips. Final Act. 3.

CLAIM GROUPING

Based on Appellants' arguments (App. Br. 7–15), we decide the appeal of the obviousness rejection of claims 1, 3–5, 7–11, 13 and 14 on the basis of claim 1. We decide the appeal of separately argued claim 2, *infra*.

ISSUES AND ANALYSIS

In reaching this decision, we consider all evidence presented and all arguments actually made by Appellants. We do not consider arguments which Appellants could have made but chose not to make in the Briefs so that we deem any such arguments as waived. 37 C.F.R. § 41.37(c)(1)(iv).

We disagree with Appellants' arguments with respect to claims 1 and 2, and we incorporate herein and adopt as our own: (1) the findings and reasons set forth by the Examiner in the action from which this appeal is

taken, and (2) the reasons and rebuttals set forth in the Examiner's Answer in response to Appellants' arguments. We incorporate such findings, reasons, and rebuttals herein by reference unless otherwise noted. However, we highlight and address specific findings and arguments regarding claims 1 and 2 for emphasis as follows.

1. § 103(a) Rejection of Claim 1

Issue 1

Appellants argue (App. Br. 7–13) the Examiner's rejection of claim 1 under 35 U.S.C. § 103(a) as being obvious over the combination of Halim, Valliappan, and Phillips is in error. These contentions present us with the following issue:

Did the Examiner err in finding the cited prior art combination of Halim, Valliappan and Phillips teaches or suggests an apparatus that includes a processor and memory with instructions that cause the processor to, *inter alia*, "select a data access object (DAO) interface . . . wherein each of the plurality of DAO interfaces is to map the interaction request to a respective existing DAO associated with the determined data source and to forward the interaction request to the mapped DAO," as recited in claim 1?

Analysis

Appellants contend:

> In fact, because the same base Java interface is implemented by all of the DAOs in Halim, the base Java interface does not map an interaction request to any particular DAO. Accordingly, Halim fails to disclose that the "base Java interface" is to map the interaction request to a respective existing DAO associated

> with the determined data source and to forward the interaction request to the mapped DAO.

App. Br. 10.

Appellants further argue:

> [T]he mapping discussed in paragraph [0034] of Halim, at best, pertains to the generation of a DAO that maps to the query parameters of an access file. See, *Halim,* pars. [0010] and [0011]. As such, the mapping described in paragraph [0034] does not pertain to any type of mapping to an *existing* DAO.

App. Br. 11.

The Examiner responds by finding Halim's conversion of a Sapphire/Web application to a J2EE application maps the name of a particular place holder to the name of a property in the corresponding DAO, i.e., the Java Database connectivity (JDBC) type mapped to the object type of the property, teaches or at least suggests "*wherein each of the plurality of DAO interfaces is to map the interaction request to a respective existing DAO associated with the determined data source.*" Ans. 3, citing Halim ¶ 12. The Examiner further finds Halim's SELECT-based DAO implementing the interface at least suggests an "existing DAO associated with the determined data source" as recited in claim 1. Ans. 3, citing Halim ¶ 11.

Our reviewing court guides, claim terms are to be given their broadest reasonable interpretation, as understood by those of ordinary skill in the art and taking into account whatever enlightenment may be had from the Specification. *In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997).[3]

[3] *See* Spec. ¶ 41 ("The terms, descriptions and figures used herein are set forth by way of illustration only and are not meant as limitations. Many

We agree with the Examiner's finding because Halim's multiple examples of mapping of a particular value placeholder to the name of a property in the corresponding DAO in accessing databases teaches or at least suggests "map the interaction request to a respective existing DAO associated with the determined data source," as recited in claim 1. Ans. 3–4, citing Halim ¶¶ 11, 12.

Because the preponderance of evidence supports the Examiner's findings, on this record, we are not persuaded the Examiner's reading of the contested "wherein" clause of claim 1 on the cited combination of references is overly broad or unreasonable.[4] Given this evidence, we do not find Appellants' arguments persuasive regarding the contested "wherein" clause of claim 1.[5, 6]

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variations are possible within the spirit and scope of the disclosure, which is intended to be defined by the following claims — and their equivalents — in which all terms are meant in their broadest reasonable sense unless otherwise indicated."

[4] Because "applicants may amend claims to narrow their scope, a broad construction during prosecution creates no unfairness to the applicant or patentee." *In re ICON Health and Fitness, Inc.*, 496 F.3d 1374, 1379 (Fed. Cir. 2007) (citation omitted).

[5] We additionally note the patentability of an apparatus claim "depends on the claimed structure, not on the use or purpose of that structure." *Catalina Marketing Int'l. Inc. v. Coolsavings.com, Inc.*, 289 F.3d 801, 809 (Fed. Cir. 2002) (citation omitted); *Paragon Solutions, LLC v. Timex Corp.*, 566 F.3d 1075, 1090-91 (Fed. Cir. 2009). Here, Appellants merely contest functional limitations, including the "wherein" clause of claim 1. Appellants do not contest any specific *structural differences* between the claimed apparatus and the corresponding structures described in the reference(s).

[6] Claim scope is not limited by claim language that suggests or makes optional but does not require steps to be performed, *or by claim language that does not limit a claim to a particular structure*. However, examples of

Appellants also contend:

> Phillips fails to disclose "select a data access object (DAO) interface associated with the determined data source" for at least the following reasons. . . . Based upon these citations, the "data access interfaces 220" described in paragraph [0038] clearly differs from the "repository data access objects 510." In one regard, the "data access interfaces 220" of Phillips cannot be construed as being data access objects because the "data access interfaces 220" do not "wrap the implementation of the repository connection" as defined in Phillips.

App. Br. 12–13.

The Examiner finds Phillips' data access interface 220 allows a user to select a source data, and data output interface 230 permits a user to select data destinations and formats, and DAO 510 teaches or at least suggests the disputed limitation "select a data access object (DAO) interface associated with the determined data source" as recited in claim 1. Ans. 4–5 (citing Phillips ¶¶ 38, 65).

We note Appellants do not file a Reply Brief to rebut the Examiner's findings and legal conclusions.

Accordingly, Appellants have not provided sufficient evidence or argument to persuade us of any reversible error in the Examiner's reading of the contested limitations on the cited prior art. Therefore, we sustain the

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claim language, although not exhaustive, that may raise a question as to the limiting effect of the language in a claim are:

(A) "adapted to" or "adapted for" clauses;

(B) "*wherein*" clauses; and

(C) "whereby" clauses.

MPEP § 2111.04, 8th ed., Rev. 9, Aug. 2012 (emphasis added).

Examiner's obviousness rejection of independent claim 1 and claims 3–5, 7–11, 13 and 14 which fall therewith. *See* Claim Grouping, *supra*.

2. § 103(a) Rejection of Claim 2

Issue 2

Appellants argue (App. Br. 14–15) the Examiner's rejection of claim 2 under 35 U.S.C. § 103(a) as being obvious over the combination of Halim, Valliappan, and Phillips is in error. These contentions present us with the following issue:

Did the Examiner err in finding the cited prior art combination teaches or suggests the apparatus of claim 1, "wherein the machine readable instructions are further to cause the processor to access a configuration file that contains information that the processor is to use in determining the data source that is to service the interaction request," as recited in claim 2?

Analysis

Appellants contend:

> [I]n contrast to claim 2, Valliappan discusses that a search is performed to identify a data source. In addition, even assuming for the sake of argument that Valliappan discloses a configuration file that contains information that the processor is to use in determining data source, paragraph [0022] of Valliappan fails to disclose "a configuration file that contained information that the processor is to use in determining *the data source that is to service the interaction request"* as recited in claim 2.

App. Br. 14–15.

The Examiner finds Valliappan's search manager 20, search translators 18, which retrieve the search results from the corresponding data

sources 30, and categories 24, which configure at least one data source 30, teach or at least suggest the disputed limitation "a configuration file that contained information that the processor is to use in determining *the data source that is to service the interaction request*" of claim 2. Ans. 6–7 (citing Valliappan ¶¶ 22, 26, 27, Figs 1, 3, 4).

On this record, we are not persuaded the Examiner has erred, in particular because Appellants, not having filed a Reply Brief, do not respond to the Examiner's findings and legal conclusions in the Answer (Ans. 6–7 (citing Valliappan ¶¶ 22, 26, 27, Figs 1, 3, 4), which further expand on the findings and legal conclusion in the Final Rejection. Final Act. 8–9 (citing Valliappan ¶ 22).

Accordingly, Appellants have not provided sufficient evidence or argument to persuade us of any reversible error in the Examiner's reading of the contested limitations on the cited prior art, or in the legal conclusion of obviousness. Therefore, we sustain the Examiner's obviousness rejection of dependent claim 2.

CONCLUSION

The Examiner did not err with respect to the obviousness rejection of claims 1–5, 7–11, 13 and 14 under 35 U.S.C. § 103(a) over the cited prior art combination of record, and we sustain the rejection.

DECISION

We affirm the Examiner's decision rejecting claims 1–5, 7–11, 13 and 14.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED